



## **MINUTES OF THE CITY COUNCIL**

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, JANUARY 31, 2017**

The Council of the City of San José convened in Regular Session at 9:35 a.m. in the Council Chambers at City Hall.

Present: Councilmembers - Arenas, Carrasco, Davis, Diep, Jimenez, Jones, Khamis, T. Nguyen, Peralez, Rocha; Liccardo.

Absent: Councilmembers - All Present.

### **STRATEGIC SUPPORT SERVICES**

#### **3.2 Accept Labor Negotiations Update.**

There was no report.

### **CLOSED SESSION**

Upon motion unanimously adopted, Council recessed at 9:33 p.m. to a Closed Session in Room W133; (A) Conference regarding potential threat to public services or facilities pursuant to Government Code Section 54957(a): Consultation with IT Department; (B) to confer with Legal Counsel pursuant to subsection (c) of Section 54956.9 of the Government Code with respect to anticipated litigation in one (1) matter; (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (1) In re: City of San José v. JUM Global, LLC; Names Of Partie(s) Involved: City of San José; JUM Global, LLC; Court: Court: U.S. District Court, San José Division; Case No. 16-CV-01462 HRL; Amount of Money or Other Relief Sought: Damages according to proof; (2) Berg & Berg Enterprises, LLC, City of San José; San José City Council, and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No.: 16-CV-297950; City of San José v. City of Santa Clara.; Names Of Partie(s) Involved: City of San José, City of Santa Clara; Court: Superior Court of California, County of Santa Clara; Case No: 1-07-CV-091955; Amount of Money or Other Relief Sought: Damages according to proof; (3) IFPTE Local 21 v. City of San José; Names

## **CLOSED SESSION (Cont'd.)**

of Partie(s) Involved: International Federation of Professional and Technical Engineers Local 21, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages According to Proof; (4) American Federation of State, County & Municipal Employees, et al. v. City; Names of Partie(s) Involved: American Federation of State, County & Municipal Employees, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof; (5) OE#3 v. City of San José; Names Of Partie(s) Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-900-M; (6) ABMEI v. City, et al.; Names of Partie(s) Involved: Association of Building, Mechanical and Electrical Inspectors, City of San José; Court: State of CA Public Employment Relations Board; Case No.: UPC SF CE 1358 M; Amount of Money or Other Relief Sought: Damages According to Proof; (7) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660; H040979; H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (8) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (9) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B. (10) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: City of San José, John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226574; H040979; H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (11) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-225928; H040979; H042074; Amount of Money or Other Relief Sought: Challenge to Measure B; (12) People of the State of California, et al. v. City of San José, et al.; Names of Partie(s) Involved: The People of the State of California ex rel. San José Police Officers Association, City of San José, City Council of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-245503; Amount

## CLOSED SESSION (Cont'd.)

of Money or Other Relief Sought: Verified Complaint In Quo Warranto; (13) Peter Constant, Steven Haug and Silicon Valley Taxpayers' Association v. Superior Court; Names Of Partie(s) Involved: Peter Constant, Steven Haug, Silicon Valley Taxpayers' Association, a California non-profit Corporation, Proposed Intervenors, Appellants and Petitioners, Superior Court of California, County of Santa Clara, Respondent, the People of the State of California ex. Rel. San José Police Officers Association, Plaintiff, Respondent and Real Party in Interest, City of San José, City Council of San José, Defendants, Respondents and Real Parties in Interest; Court: Sixth District Court of Appeal; Case No.: H043540; Amount of Money or Other Relief Sought: Petition for Writ of Mandate or, In the Alternative, Supersedeas, or Other Appropriate Relief; (14) San José Retired Employees Association, et al. v. City of San José, et al; Names of Partie(s) Involved: San José Retired Employees Association, Kirk Pennington, David Armstrong, Donna Jewett, Dorothy McGinley, City of San José, the Board of Administration for the Federated City Employees Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-268085; Amount of Money or Other Relief Sought: Change to City medical plan; (D) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association

## **CLOSED SESSION (Cont'd.)**

(SJPOA); Nature of Negotiations: Salaries, Hours, Working Conditions, etc.; Name of Existing Wages Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:30 p.m. and reconvened to Regular Session at 1:34 p.m. in the Council Chambers.

Present: Councilmembers - Arenas, Carrasco, Davis, Diep, Jimenez, Jones, Khamis, T. Nguyen, Peralez, Rocha; Liccardo.

Absent: Councilmembers - All Present.

## **INVOCATION**

Pastor Andrew Tsai, Taiwanese Presbyterian Church, provided the Invocation.

## **PLEDGE OF ALLEGIANCE**

Mayor Sam Liccardo led the Pledge of Allegiance accompanied by third-grade students from Rosemary Elementary School.

## **CEREMONIAL ITEMS**

### **1.1 Presentation of a commendation to Jill Bourne for being recognized nationally as *Library Journal's* Librarian of the Year. (City Manager)**

City Manager Norberto Dueñas and Mayor Sam Liccardo provided a commendation to Jill Bourne for being recognized nationally as *Library Journal's* Librarian of the Year.

### **1.2 Commendation to Pranav Sairam, a fourth grade student at Country Lane Elementary School, for achieving nationwide recognition for his accomplishments in Chess. (Jones)**

Mayor Sam Liccardo and Councilmember Chappie Jones commended Pranav Sairam, a fourth grade student at Country Lane Elementary School, for achieving nationwide recognition for his accomplishments in Chess.

## ORDERS OF THE DAY

Upon motion by Councilmember Raul Peralez, seconded by Councilmember Tam Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 4.6 deferred to February 7, 2017. (11-0.)

## CONSENT CALENDAR

Upon motion by Councilmember Raul Peralez, seconded by Councilmember Tam Nguyen and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated.

### 2.1 Approval of Council Minutes:

None provided

### 2.2 Final Adoption of Ordinances.

- (a) **ORD. NO. 29864** – An ordinance of the City of San José rezoning certain real property of approximately 3.5-gross acres situated on the southwest corner of Metro Drive and North 1<sup>st</sup> Street (1737 North 1<sup>st</sup> Street) from the CO(PD) Planned Development and IP Industrial Park Zoning Districts to the CP Commercial Pedestrian Zoning District. CEQA: Determination of Consistency with Final Program EIR for the Envision San José 2040 General Plan (Resolution No. 76041) and the Supplemental EIR for the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617). (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29864 executed on January 27, 2017, submitted by the City Clerk.

Action: Ordinance No. 29864 was adopted. (11-0.)

- (b) **ORD. NO. 29865** – An ordinance of the City of San José rezoning certain real property of approximately 2.0-gross acres situated on the southeast corner of Race Street and West San Carlos Street (320 Race Street) from the LI Light Industrial Zoning District to the CIC Combined Industrial/Commercial Zoning District. CEQA: Determination of Consistency with Final Program EIR for the Envision San José 2040 General Plan (Resolution No. 76041) and the Supplemental EIR for the Envision San José 2040 General Plan (Resolution No. 77617). (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29865 executed on January 27, 2017, submitted by the City Clerk.

Action: Ordinance No. 29865 was adopted. (11-0.)

## **2.2 Final Adoption of Ordinances (Cont'd.)**

- (c) **ORD. NO. 29866 – An ordinance of the City of San José rezoning certain real property of approximately 43.5-gross acres situated on the southeast corner of Almaden Expressway and Cherry Avenue (Almaden Ranch Retail Center), from the A(PD) Planned Development Zoning District. CEQA: Addendum to the Almaden Ranch Retail Center Subsequent EIR (Resolution No. 76168). (Planning, Building and Code Enforcement)**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29866 executed on January 27, 2017, submitted by the City Clerk.

Action: Ordinance No. 29866 was adopted. (11-0.)

## **2.3 Approval of Council Committee Minutes.**

None provided.

## **2.4 Mayor and Council Excused Absence Requests.**

None provided.

## **2.5 City Council Travel Reports.**

None provided.

## **2.6 Report from the Council Liaison to the Retirement Boards.**

None provided.

- 2.7 Adopt a resolution authorizing the City Manager to execute a Capital Equipment Assistance Agreement with Flextech Alliance, Inc., in which the City will provide an amount not to exceed \$400,000 for the acquisition of capital equipment to be used exclusively at the Flexible Hybrid Electronics Manufacturing Innovation Institute in San José. CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. (Economic Development)**

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated January 9, 2017, recommending adoption of a resolution.

Action: Resolution No. 78069, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Capital Equipment Assistance Agreement with Flextech Alliance, Inc. (DBA NextFlex) in which the City will Provide an Amount Not to Exceed \$400,000 for the Acquisition of Clean Room Equipment for Manufacturing and Research and Development to be Located at the Proposed Flexible Hybrid Electronics Manufacturing Innovation Institute in San José”, was adopted. (11-0.)

**2.8 As referred to City Council, without recommendation, by the two councilmembers present at the Rules and Open Government Committee on January 18, 2017, approve the following appointments to the DCAC for four year terms ending March 1, 2021:**

- (a) Appoint David Woolsey as the representative recommended by the San José Police Officers Association (SJPOA);**
- (b) Appoint Jamal Fountaine as the representative recommended by the San José Firefighters, Local 230 (IAFF); and**
- (c) Appoint John Reger as the representative recommended by the trades employee organizations (Association of Building, Mechanical and Electrical Inspectors (ABMEI), Operating Engineers Local 3 (OE#3), and International Brotherhood of Electrical Workers (IBEW).**

**CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Human Resources)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated January 19, 2017, offering suggestion, without recommendation, by two Councilmembers present at the Rules and Open Government Committee of January 18, 2017.

Action: the following appointments to the DCAC for four year terms ending March 1, 2021, were approved:

- (a) Appointment of David Woolsey as the representative recommended by the San José Police Officers Association (SJPOA);
- (b) Appointment of Jamal Fountaine as the representative recommended by the San José Firefighters, Local 230 (IAFF); and
- (c) Appointment of John Reger as the representative recommended by the trades employee organizations (Association of Building, Mechanical and Electrical Inspectors (ABMEI), Operating Engineers Local 3 (OE#3), and International Brotherhood of Electrical Workers (IBEW).

(11-0.)

**2.9 (a) Approve the Dumpster Day Neighborhood Clean Up scheduled on February 4, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**

- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Arenas)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated January 27, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Public Comments: Danielle Pirslin and Blair Beekman spoke to the importance of maintaining the quality of neighborhood environments.

Action: The Dumpster Day Neighborhood Clean Up as a City Council Sponsored Special Event was approved, and expenditure of funds and authorization to accept donations from various individuals, businesses or community groups to support the event, was approved.

(11-0.)

**END OF CONSENT CALENDAR**

## STRATEGIC SUPPORT SERVICES

### 3.1 Report of the City Manager, Norberto Dueñas (Verbal Report).

City Manager Norberto Dueñas and Assistant City Manager David Sykes provided an update on the Council Priority Setting process and indicated that this session would be held on February 28, 2017.

## COMMUNITY & ECONOMIC DEVELOPMENT

*Heard Jointly with the Joint City of San Jose City Council/Financing Authority.*

- 4.1 (a) Report on bids and award of a design-build construction contract for 8062 – Convention Center Exhibit Hall Lighting and Ceiling Upgrades Project to the sole bidder, Stronghold Engineering, Inc. in the amount of \$17,787,177 and approval of a fifteen percent contingency in the amount of \$2,668,077.
- (b) Adopt a resolution authorizing the Director of Public Works to issue any change orders up to the amount of the contingency.
- (c) Adopt the following 2016-2017 Appropriation Ordinance and Funding Source Resolution amendments in the Convention Center Facilities District Revenue Fund:
- (1) Establish the estimate for Financing Proceeds in the amount of \$15,000,000; and
  - (2) Increase the Convention Center Exhibit Hall Lighting and Ceiling Upgrades appropriation to the Public Works Department by \$15,000,000.

**CEQA: Exempt, File No. PP16-053, CEQA Guidelines Section 15301(a), Existing Facilities. Council District 3. (Public Works/City Manager)**

Documents Filed: Joint memorandum from Director of Public Works Barry Ng and Senior Deputy City Manager Jennifer Maguire, dated January 19, 2017, recommending acceptance of the report and adoption of a resolution and adoption of an appropriation ordinance and funding sources resolution amendments.

Director of Public Works Barry Ng provided an introduction, and Ewell Sterner, Convention Center Operations General Manager, Team San José, provided a presentation. Senior Deputy City Manager Jennifer Maguire discussed the financing mechanism to be utilized. Staff responded to questions from Council.

Public Comments: Mike Fox, Goodwill of Silicon Valley, offered support to the renovation.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez, and carried unanimously, Resolution No. 78070, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Negotiate



#### 4.1 (Cont'd.)

and Execute any Single and/or Multiple Change Orders for the 8062 – Convention Center Exhibit Hall Lighting and Ceiling Upgrades Project in Excess of \$100,000 up to the Amount of the Contingency of \$2,668,077”; Ordinance No. 29877, entitled “An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the Convention Center Facilities District Revenue Fund for the Convention Center Exhibit Hall Lighting and Ceiling Upgrades; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 78078, entitled: “A Resolution of the Council of the City Of San José Amending Resolution No. 77796 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2016-2017 to Adjust Revenues in the Convention Center Facilities District Revenue Fund”, were adopted. (11-0.)

*Heard Jointly with the Joint City of San Jose City Council/Financing Authority.*

#### 4.2 **As recommended by the Neighborhood Services and Education Committee on December 8, 2016, accept the audit of the Apartment Rent Ordinance. CEQA: Not a Project, File No. PP10-069(a), Staff Reports that involve no approval of any City Actions. (City Auditor)**

Documents Filed: Joint memorandum from Mayor Sam Liccardo and Councilmember Chappie Jones, dated January 27, 2017, recommending acceptance of the City Auditor’s report with additional implementations. (2) Memorandum from Councilmember Donald Rocha, dated January 27, 2017, recommending acceptance of the City Auditor’s report with additional recommendations. (3) Joint memorandum from Councilmember Johnny Khamis, Councilmember Lan Diep and Councilmember Dev Davis, dated January 27, 2017, recommending acceptance of the report with modifications. (4) Memorandum from Councilmember Sergio Jimenez, dated January 31, 2017, recommending acceptance of the report with the request to bifurcate item #13 (Unit Registry). (5) Memorandum from City Clerk Toni J. Taber, CMC, dated January 19, 2017, providing recommendations of the Neighborhood Services and Education Committee of December 8, 2016. (6) Memorandum from City Auditor Sharon Erickson, dated November 30, 2016, providing the Report to the City Council, entitled “The Apartment Rent Ordinance: Additional Investment, Improved Processes and Strategic Resource Deployment Needed to Better Serve Tenants and Landlords”. (7) Supplemental memorandum from Director of Housing Jacky Morales-Ferrand, dated January 23, 2017, providing summary of public comment on the audition and providing modification to the Administration’s Response to Recommendation #5 regarding apartment unit addresses.

City Auditor Sharon Erickson, Director of Housing Jacky Morales-Ferrand and Housing Policy & Program Administrator Rachel VanderVeen offered a presentation.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comment: Offering comments, recommendations and individual perspectives on the proposed Apartment Rent Ordinance, were: Elizabeth Gonzalez, Silicon Valley De-Bug; David Eisbach, Jocelin Hernandez and Eva Fettenhauer; Ron Johnson and Sandy

## 4.2 (Cont'd.)

Public Comments (Cont'd.): Perry, Affordable Housing Network; Eunice Hernandez, Emanuel Jacobo and José Rangel, Sacred Heart Community Service; Nadia Aziz and Melissa Morris, Law Foundation of Silicon Valley; Jeffrey Buchanan and Lenine Umali, Working Partnerships, USA; Anil Babbas, CAA; Bruce R, SHHAC; Dan Pan, Matthew Reed, Vincent Rocha, Susan Lapsys, Bob Brownstein; Danielle Pirslin, Waterloo Apartment Tenant Association; Roberta Moore; Evelina Nava, Tenants Together; Stephano Medina, Unite Here 19; Sita Kern; Susan Price-Jang, Santa Maria Urban Ministry; Shevlin de la Roza and Christian Olland, PACT; Blair Beekman, Omar Vasquez, Shaunn Cartwright, John Burk, Nick Chow, Lucy, Wendy Wang, Michael Fitzgerald, Steve Hanleigh, Sita Kern, R. Pennington, Jeff Zell, and Milt Krantz.

City Manager Norberto Dueñas offered reflections on the process and discussed the outcome of community outreach.

Motion: Councilmember Johnny Khamis moved approval of the memorandum he co-signed with Councilmember Lan Diep and Councilmember Dev Davis, dated January 27, 2017, recommending acceptance of the report with modifications. Councilmember Dev Davis seconded the motion.

Extensive Council discussion ensued.

Substitute Motion: Councilmember Raul Peralez moved approval of his memorandum dated January 31, 2017 recommending adoption of a rent registry and elimination of the banking provisions in the final ordinance. Councilmember Tam Nguyen seconded the motion, asking that bifurcation of Item #13, Rent Registry, be included. Councilmember Raul Peralez agreed that this item be bifurcated.

This item was bifurcated into two motions: #1: Maintain a rent registry rather than a unit registry, and #2: the remainder of the Apartment Rent Ordinance as recommended by staff.

Staff clarified issues regarding a rent registry vs. a unit registry.

Action: On a call for the question, the substitute motion #1 with Administration directed to maintain a rent registry rather than a unit registry was accepted. (8-3. Noes: Davis, Diep, Khamis.)

Action #2: The substitute motion in reference to the remainder of the audit of the Apartment Rent Ordinance, was carried, with recommendations by staff, including elimination of the banking provision. (7-4. Noes: Davis, Jones, Khamis, Liccardo.)

- 4.3 (a) Hold a Public Hearing and take public comment on a Substantial Amendment to the City's Fiscal Year (FY) 2016-17 Annual Action Plan (Action Plan) to:**
- (1) Increase the Community Development Block Grant (CDBG) Program fund allocation for Acquisition and/or Rehabilitation for Affordable Housing from \$3,265,000 to \$5,265,000 to allow for the acquisition of real property for permanent supportive housing for homeless individuals.**
  - (2) Funds for this increase will be made available by making the following actions:**
    - (i) Decrease the CDBG fund allocation for Targeted Code Enforcement from \$1,800,000 to \$1,212,000.**
    - (ii) Decrease the CDBG fund allocation for Place-Based Street and Infrastructure Enhancements from \$1,150,000 to \$200,000.**
    - (iii) Decrease the CDBG fund allocation for Nonprofit Facility Rehabilitation, from \$659,931 to \$197,931.**
  - (3) Increase the Emergency Solutions Grant (ESG) fund allocation by \$263,682 reflecting allocation of ESG funds from previous year balances to support services for homeless individuals and families and increase the number of outreach contacts to 1,400.**
- (b) Adopt a resolution approving the Substantial Amendment to the FY 2016-17 Annual Action Plan.**
- (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Multi-Source Housing Fund:**
- (1) Increase the estimate of Revenue from the Federal Government by \$155,920; and**
  - (2) Increase the appropriation to the Housing Department for Emergency Shelter Grants by \$155,920.**

**CEQA: Not a Project, File No. PP10-069(a), Annual Reports. (Housing/CMO)**

Documents Filed: Joint memorandum from Director of Housing Jacky Morales-Ferrand and Senior Deputy City Manager Jennifer Maguire, dated January 19, 2017, recommending holding a public hearing, adopting a resolution and adoption of an appropriation ordinance and funding sources resolution amendments.

Director of Housing Jacky Morales-Ferrand offered comments and responded to questions from the Council.

Public Comments: Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Raul Peralez, seconded by Vice Mayor Magdalena Carrasco and carried unanimously, Staff's recommendations regarding a Substantial Amendment to the City's Fiscal Year (FY) 2016-17 Annual Action Plan (Action Plan) to: (1) Increase the Community Development Block Grant (CDBG) Program fund allocation for Acquisition and/or Rehabilitation for Affordable Housing from \$3,265,000 to \$5,265,000 to allow for the acquisition of real property for permanent supportive housing for homeless individuals; (2) Making funds available by (i) Decreasing the CDBG fund allocation for Targeted Code Enforcement from \$1,800,000 to \$1,212,000;

#### 4.3 (Cont'd.)

(ii) Decreasing the CDBG fund allocation for Place-Based Street and Infrastructure Enhancements from \$1,150,000 to \$200,000; (iii) Decreasing the CDBG fund allocation for Nonprofit Facility Rehabilitation, from \$659,931 to \$197,931; (3) Increasing the Emergency Solutions Grant (ESG) fund allocation by \$263,682 reflecting allocation of ESG funds from previous year balances to support services for homeless individuals and families and increase the number of outreach contacts to 1,400, was approved. Resolution No. 78071, entitled: "A Resolution of the Council of the City of San José Approving the Substantial Amendment to the Fiscal Year 2016-17 Annual Action Plan"; Resolution No. 78072, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 77796 Setting Forth the Estimated Sources of Funds For the Fiscal Year 2016-2017 to Adjust Revenues in the Multi-Source Housing Fund", and Ordinance No. 29869, entitled "An Ordinance of the City Of San José Amending Ordinance No. 29762 to Appropriate Moneys in the Multi-Source Housing Fund for the Emergency Shelter Grants; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (11-0.)

#### 4.4 (a) Adopt a resolution:

- (1) Approving up to a total of \$16,600,000, including a commitment for a land acquisition loan of up to \$4,500,000 ("Acquisition Loan") and a total commitment for predevelopment/construction/permanent loans of up to \$12,100,000, to Affirmed Housing Group, Inc. or an affiliated development entity ("Affirmed/PATH Ventures" or "Developer") for the Villas on the Park Apartments, a new permanent supportive housing ("PSH") development to be located at 278 N. 2nd Street ("Site") in order to offer rent- and income-restricted apartments for 78 very low-income ("VLI") households ("Development") and approving a Loan-to-Value Ratio of greater than 100% for these loans;
  - (2) Authorizing the Director of Housing to acquire the Site from the Developer for a price not to exceed the Acquisition Loan balance at the time of transfer and to enter into a long-term ground lease of the Site to Developer for the Development; and
  - (3) Authorizing the Director of Housing to negotiate documents and document amendments related to the loans, the acquisition and development of the Site, and the ground leasing of the Site.
- (b) Adopt the following Appropriation Ordinance amendments in the Low and Moderate Income Housing Asset Fund:
- (1) Decrease the Housing Project Reserve appropriation in the amount of \$16,600,000; and
  - (2) Increase the appropriation for Housing Loans and Grants in the amount of \$16,600,000.
- (c) Adopt the following Appropriation Ordinance amendments in the Community Development Block Grant Fund:
- (1) Decrease the Unrestricted Ending Fund Balance by \$2,000,000; and
  - (2) Increase the appropriation for Property Acquisition in the amount of \$2,000,000.

#### 4.4 (Cont'd.)

**CEQA: Addendum to the San José Downtown Strategy 2000 Final Program EIR, and the Envision San José 2040 General Plan Final Program EIR and Supplemental EIR, File Nos. C16-020, CP16-014, and AT16-030. (Housing/City Manager)**

Documents Filed: Joint memorandum from Director of Housing Jacky Morales-Ferrand and Senior Deputy City Manager Jennifer Maguire, dated January 19, 2017, recommending adopting a resolution and adoption of an appropriation ordinance and funding sources resolution amendments.

Director of Housing Jacky Morales-Ferrand provided an overview of the plan.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Jim Silverwood, representing Affirmed Housing, offered support and accolades to Staff and Council.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Tam Nguyen and carried unanimously, Resolution No. 78073, entitled: “A Resolution of the Council of the City of San José Approving Loan Commitments, a Land Purchase and Ground Lease for the Development of the Villas on the Park Affordable Apartments”; Ordinance No. 29870, entitled “An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the Low and Moderate Income Housing Asset Fund for Housing Loans and Grants; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Ordinance No. 29871, entitled “An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the Community Development Block Grant Fund for Property Acquisition; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (11-0.)

#### 4.5 Conduct a Public Hearing and adopt a resolution:

- (a) **Overruling any and all objections to the 2017-2018 Hazardous Vegetation Commencement Report (Report); and**
- (b) **Directing the Santa Clara County Consumer and Environmental Protection Agency to abate the seasonal and/or recurrent public nuisances on those properties identified in the Report pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.**

**CEQA: Exempt, File No. PP13-097, CEQA Guidelines Section 15301, Existing Facilities. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director, Planning, Building and Code Enforcement Harry Freitas, dated January 5, 2017, recommending conducting a public hearing, overruling objections to the 2017-2018 Hazardous Vegetation Commencement Report and directing the Santa Clara County Consumer and Environmental Protection Agency to abate the seasonal and/or recurrent public nuisances on those properties identified in the Report.

#### 4.5 (Cont'd.)

Public Comments: Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Tam Nguyen and carried unanimously, Resolution No. 78074, entitled: "A Resolution of the Council of the City of San José Overruling Objections to the 2017-2018 Hazardous Vegetation Commencement Report and Directing the Santa Clara County Consumer and Environmental Protection Agency to Abate the Seasonal and/or Recurrent Public Nuisances on those Properties Identified in the Report Pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement Between the City of San José and the County of Santa Clara", was adopted. (10-1. Absent: Jones.)

- 4.6 (a) **Report on bids for the 7664 – San José Civic Auditorium HVAC (Air Conditioning) Rehabilitation Project, and approval of a 15 percent contingency if City Council awards a construction contract; and**
- (b) **Adopt the following 2016-2017 Appropriation Ordinance amendments in the Convention and Cultural Affairs Fund:**
- (1) **Increase the San José Civic Auditorium HVAC Rehabilitation appropriation to the Public Works Department by \$2,229,000;**
  - (2) **Decrease the Ending Fund Balance by \$1,700,000; and**
  - (3) **Decrease the Capital Reserve by \$529,000.**

**CEQA: Exempt, File No. PP16-116, CEQA Guidelines Section 15302(c), Replacement or Reconstruction and Section 15331, Historical Resource Restoration/Rehabilitation. Council District 3. (Public Works/City Manager)**

Action: Deferred to February 7, 2017 per Orders of the Day.

## NEIGHBORHOOD SERVICES

### 5.1 Adopt a resolution:

- (a) **Authorizing the Director of Housing, or designee, to submit grant applications in an aggregate amount up to \$1,250,000 to the California Department of Housing and Community Development (HCD) under the Housing-Related Parks Program (HRPP) for the development of parkland on the Alum Rock & 31st Street property; and**
- (b) **Authorizing the Director of Housing, or designee, to accept HRPP grant awards and conduct all negotiations, execute, and submit all documents, including, but not limited to, applications, agreements, amendments, and payment requests, which may be necessary in connection to these grants, provided that the Director is not authorized to expend funds on these projects prior to receiving California Environmental Quality Act (CEQA) approval for each specific project.**

**CEQA: Not a Project, File No. PP10-068(a), Grant Application. (Parks, Recreation and Neighborhood Services/Housing)**

## 5.1 (Cont'd.)

Documents Filed: Joint memorandum from Director of Housing Jacky Morales-Ferrand and Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated January 9, 2017, recommending adoption of a resolution.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Tam Nguyen and carried unanimously, Resolution No. 78075, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Housing or Designee to Submit Grant Applications in an Aggregate Amount up to \$1,200,000 to the California Department of Housing and Community Development Under the Housing-Related Parks Program for the Development of Parkland on the Alum Rock and 31<sup>st</sup> Street Property, to Accept the Grants if Awarded, and to Negotiate and Execute all Related Documents", was adopted. (11-0.)

## ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) **Conduct a Public Hearing on the applications of the following companies for Non-Exclusive Franchises for the non-exclusive collection, transport, and disposal of residential clean-out material and construction and demolition debris.**
- (b) **Approve ordinances granting the franchises.**
- (c) (c) **Approve the Non-Exclusive Franchise Agreements for the collection, transport, and disposal of residential clean-out material and construction and demolition debris for a term from March 9, 2017 to June 30, 2017:**
- (1) **Toca Debris Box;**
- (2) **Bay Area Dumpsters.**
- CEQA: Exempt, File No. PP08-228, CEQA Section 15308 Actions by Regulatory Agencies for Protection of the Environment. (Environmental Services)**

Documents Filed: (1) Memorandum from Director, Environmental Services, Kerrie Romanow, dated January 9, 2017, recommending conducting a public hearing, adoption of an ordinance granting the franchises and approval of the non-exclusive franchise agreements. (2) Proof of Publication of Notice of Public Hearing, executed on January 20, 2017, submitted by the City Clerk.

Public Comments: Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Tam Nguyen and carried unanimously, Ordinance No. 29873, entitled "An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Sergio Barajas DBA Bay Area Dumpsters"; and Ordinance No. 29874, entitled "An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Francisco Toca DBA Toca Debris Box", were passed for publication. (11-0.)

**7.2 Approve a Master Consultant Agreement with Kennedy/Jenks Consultants, Inc. to provide engineering and architectural services for the 7944-Support Building Improvements Project at the San José-Santa Clara Regional Wastewater Facility from the date of execution through June 30, 2024, in an initial total amount not to exceed \$4,800,000, subject to the appropriation of funds. CEQA: Exempt, File No. PP10-066(d), Section 15262, Feasibility and Planning Studies with respect to the scope of work that is limited to this action. Any future activities resulting in a change to the physical environment would require approval of CEQA review. (Environmental Services)**

- (a) Approve award of a construction contract for the 8150 – Large Trash Capture Device Installation – Phase V Project to the low bidder, JMB Construction, Inc., in the amount of \$4,488,723 and approve a contingency in the amount of \$448,873.**
- (b) Adopt the following 2016-2017 Appropriation Ordinance Amendments in the Storm Sewer Operating Fund:**
  - (1) Decrease the Capital Program Reserve Balance in the amount of \$1,900,000;**
  - (2) Decrease the Permit Implementation Reserve in the amount of \$2,500,000; and**
  - (3) Increase the transfer to the Storm Sewer Capital Fund in the amount of \$4,400,000.**
- (c) Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution Amendments in the Storm Sewer Capital Fund:**
  - (1) Decrease the Outfall Rehabilitation-Capital Appropriation in the amount of \$1,000,000;**
  - (2) Increase Transfers and Reimbursements Revenue in the amount of \$4,400,000; and**
  - (3) Increase the appropriation to the Public Works Department for Large Trash Capture Devices in the amount of \$5,400,000.**

**CEQA: Exempt, File No. PP17-014, CEQA Guidelines Section 15301, Existing Facilities. Council District 3. (Public Works/Environmental Services/City Manager)**

Documents Filed: Joint memorandum from Director of Public Works Barry Ng, Director, Environmental Services, Kerrie Romanow and Senior Deputy City Manager Jennifer Maguire, dated January 19, 2017, recommending approval of award of a construction contract adoption of appropriation ordinance amendments and appropriation ordinance and funding sources resolution amendments.

Deputy Director of Public Works, Michael O’Connell, responded to questions from Council.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Tam Nguyen and carried unanimously, Ordinance No. 29877, entitled “An Ordinance of the City of San José Amending Ordinance No. 29762 To Appropriate Moneys in the Convention Center Facilities District Revenue Fund for the Convention Center Exhibit Hall Lighting and Ceiling Upgrades; and Providing that this Ordinance Shall Become



## 7.2 (Cont'd.)

Effective Immediately Upon Adoption”; Ordinance No. 29875, entitled “An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the Storm Sewer Operating Fund for the Transfer to the Storm Sewer Capital Fund; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Ordinance No. 29876, entitled “An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the Storm Sewer Capital Fund for the Large Trash Capture Devices; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 78076, entitled: “A Resolution of the Council of the City of San José Authorizing Amending Resolution No. 77796 Setting Forth the Estimated Sources Of Funds for the Fiscal Year 2016-2017 to Adjust Revenues in the Storm Sewer Capital Fund”, were adopted. (11-0.)

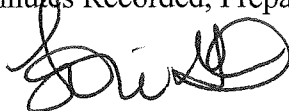
## OPEN FORUM

- (1) Carmen Ehlinger strongly encouraged the City to reconsider its financial relationship with banks that fund the Dakota access pipeline.
- (2) Blair Beekman spoke on tenants’ rights and thanked the Council for their actions at today’s meeting.

## ADJOURNMENT

Mayor Sam Liccardo adjourned the Council of the City of San José meeting at 6:29 p.m. in memory of Nancy Lee Alford, who passed away on December 28, 2016. Nancy's entire career of over 30 years with the City of San José was dedicated to the Clerk's Office (1977-2007) where she held increasingly responsible positions; retiring as the Assistant City Clerk. Nancy will be remembered for her exemplary professionalism, caring mentorship, and for being the embodiment of laughter as one of life's greatest inspirations.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC  
City Clerk

rmk/01-31-17 MIN

**JOINT CITY OF SAN JOSE CITY COUNCIL/  
FINANCING AUTHORITY MINUTES**

1. **Called to Order at 2:30 p.m. and *Heard jointly with Council Meeting Item 4.1***
  2. **Issuance of Commercial Paper Notes for the Convention Center Exhibit Hall Lighting and Ceiling Upgrades Project.**
    - (a) **City Council and City of San José Financing Authority Board take the following actions:**
      - (1) **Conduct a Public Hearing concerning the approval of the issuance by the City of San José Financing Authority of commercial paper notes in order to finance certain public capital improvements of the City, consisting of lighting and ceiling upgrades to the exhibit hall of the San José McEnery Convention Center (the "Convention Center") and certain related costs (the "Exhibit Hall Project"); and**
      - (2) **Adopt a resolution to approve the issuance of commercial paper notes pursuant to the previously established commercial paper program designated as "City of San José Financing Authority Lease Revenue Commercial Paper Notes" to provide financing for the Exhibit Hall Project in an amount not to exceed \$15 million and to state the City Council's determination that there will be significant public benefits accruing from such financing.**
    - (b) **City of San José Financing Authority Board adopt a resolution to approve the issuance of City of San José Financing Authority Commercial Paper Notes to provide financing for the Exhibit Hall Project in an amount not to exceed \$15 million.**
- CEQA: Exempt, Section 15301 Existing Facilities, File No. PP16-053. (Finance/Public Works)**

***Heard jointly with Council Meeting Item 4.1***

Documents Filed: (1) Joint memorandum from Director of Finance Julia H. Cooper and Director of Public Works Barry Ng, dated January 18, 2017, recommending holding a public hearing and adoption of resolutions. (2) Proof of Publication of Notice of Public Hearing, executed on January 20, 2017, submitted by the City Clerk.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, Resolution No. 78077, entitled: "A Resolution of the Council of the City of San José Approving the Issuance of Commercial Paper Notes Pursuant to the Previously Established Commercial Paper Program Designated as "City of

**2. Issuance of Commercial Paper Notes for the Convention Center Exhibit Hall Lighting and Ceiling Upgrades Project (Cont'd.)**

San José Financing Authority Lease Revenue Commercial paper Notes” in the Not to Exceed Amount of \$15,000,000 to Provide Financing for the Exhibit Hall Project and Determining that there Will Be Significant public Benefits Accruing From Such Financing”; and City of San José Financing Authority Board Resolution No. 132, entitled: “A Resolution of the Council of the City of San José Financing Authority Authorizing the Issuance of City of San José Financing Authority Lease Revenue Commercial Paper Notes for the Exhibit Hall Project in an Amount Not to Exceed \$15,000,000”, was adopted. (11-0.)

**4. The meeting of the Joint City Council and San José Financing Authority was adjourned at 2:45 p.m.**

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC  
City Clerk

rmk/01-31-17 MIN